

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7475

BILL NUMBER: HB 1741

NOTE PREPARED: Mar 1, 2005

BILL AMENDED: Feb 28, 2005

SUBJECT: Fireworks Sales and Discharge.

FIRST AUTHOR: Rep. Frizzell

FIRST SPONSOR:

BILL STATUS: 2nd Reading - 1st House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill defines consumer fireworks, display fireworks, fireworks, and novelties. It repeals the requirement for certain retailers to obtain a fireworks stand retail sales permit from the State Fire Marshal. It repeals certain requirements related to interstate wholesaler sales of fireworks not approved for sale in Indiana. It requires that the registration fee for certain fireworks businesses be deposited in the Firefighting and Emergency Equipment Revolving Loan Fund.

The bill makes it a Class A misdemeanor for: (1) a person less than 18 years of age to knowingly or intentionally purchase consumer fireworks; (2) a seller of consumer fireworks to knowingly or intentionally fail to request photographic identification of a purchaser who appears less than 25 years of age; (3) a person to use consumer fireworks other than at specified dates during the year; and (4) to sell fireworks at retail from certain vehicles.

The bill requires the initial health care practitioner or hospital administrator who treats an individual for an injury that the practitioner or administrator identifies as resulting from fireworks or pyrotechnics to report the injury to the State Department of Health. The bill provides that the reports are confidential. It makes conforming amendments.

Effective Date: Upon passage.

Explanation of State Expenditures: (Revised) The bill provides that a practitioner, hospital administrator, or outpatient surgical center that initially treats a person for an injury resulting from fireworks or pyrotechnics must report the case to the State Health Data Center of the State Department of Health (SDH). The report may

be made in writing on a form prescribed by the SDH. The SDH must compile the data collected and submit in an electronic format a report to the Legislative Council not later than December 31, 2006. The SDH is currently reporting such incidences. To continue the reporting, the SDH will incur administrative expenses of \$10,000 each year.

Explanation of State Revenues: (Revised) Under the bill, people would be allowed to buy any kind of 1.4g fireworks from any type of sales location, including a tent but not including a vehicle, from a person or entity who pays a \$5,000 permit fee. The potential increase in revenue that could be generated from this bill is indeterminable, but would probably be significant. Entities that do not currently pay the permit fee, such as not-for-profits or retailers such as WalMart, may be required to pay the fee. The fiscal impact is indeterminable because it is not possible to estimate the number of people who would have to buy a permit.

Under current statute, entities that sell, for example, Roman candles, fire crackers, or bottle rockets, from a permanent structure have to obtain a permit and pay a \$1,000 permit fee. During CY 2004, permit fees generated \$187,000. Revenue from the permits currently is deposited in the Fire and Building Service Fund, which is used for the operation of the Fire and Building Services Department, the Fire Prevention and Building Safety Commission, and the Board of Firefighting Personnel Standards and Education. The bill requires that the registration fee for certain fireworks businesses be deposited in the Firefighting and Emergency Equipment Revolving Loan Fund.

Penalty Provisions: The bill makes it a Class A misdemeanor for: (1) a person less than 18 years of age to knowingly or intentionally purchase consumer fireworks; (2) a seller of consumer fireworks to knowingly or intentionally fail to request photographic identification of a purchaser who appears less than 25 years of age; and (3) a seller of consumer fireworks to knowingly or intentionally fail to record certain information regarding a sale of consumer fireworks. If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class A misdemeanor is \$5,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

A person who ignites, discharges, or uses consumer fireworks intended to be used at a special discharge location at a site other than a special discharge location commits a Class D infraction. However, if a person commits an offense not later than five years after the date of the commission of a prior offense, the person commits a Class C infraction. The maximum judgment for a Class D infraction is \$25, which is deposited in the state General Fund. The maximum judgment for a Class C infraction is \$500, which is deposited in the state General Fund. If additional court cases occur, revenue to the state General Fund may increase if infraction judgments and court fees are collected. If court actions are filed and a judgment is entered, a court fee of \$70 would be assessed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court.

Explanation of Local Expenditures: *Penalty Provisions:* A Class A misdemeanor is punishable by up to one year in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

Explanation of Local Revenues: (Revised) *Penalty Provisions:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general

fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: SDH, Legislative Council, Office of the State Fire Marshal.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Mara Synder, Office of the State Fire Marshal, 233-5341.

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